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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

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Case No.: 3:12-cv-00529-MMD-VPC

JOSEPH P. CUVIELLO and  
DENIZ BOLBOL

Plaintiffs,

**JOINT CASE MANAGEMENT REPORT**

vs.

STATE OF NEVADA, ex rel BOARD OF  
REGENTS OF NEVADA SYSTEM OF  
HIGHER EDUCATION on behalf of the  
UNIVERSITY OF NEVADA, RENO,  
("UNR"): on behalf of UNIVERSITY OF  
NEVADA, RENO POLICE OFFICER JON  
MARTINEZ, LAWLOR EVENTS CENTER  
HEAD OF SECURITY MIKE MCCLEARLY  
and DOES 1-10, in their individual and  
official capacities, Jointly and Severally,

Defendants.

Plaintiffs and Defendants jointly submit this Joint Case Management Report in  
response to Minute Order DKT 58:

**1. Nature of the Case:**

The plaintiffs are alleging violation of their free speech rights as the result of  
being prohibited from videotaping elephants from certain locations at the Ringling Bros.  
and Barnum & Bailey Circus at Lawlor Events Center at the University of Nevada, Reno  
on October 1, 2011. The plaintiffs bring suit under 42 U.S.C. § 1983, 1985 and 1988

1 and base their suit on the First and Fourteenth Amendments to the United States  
2 Constitution. There are no pendant state claims.

3 The plaintiffs are suing two individuals: Mike McCleary, who was an employee of  
4 Lawlor Events Center, and Jonathan Martinez, who was an officer with the University's  
5 Police Services Department. Claims against the University have been dismissed, as  
6 the University, a state institution, is immune from suit pursuant to the Eleventh  
7 Amendment to the United States Constitution.

8 Defendants dispute that there was any violation of Plaintiffs' constitutional rights.  
9 Defendants allege that no constitutional rights attached at the location where Plaintiffs  
10 were filming, that reasonable time, place and manner restrictions justified Defendants'  
11 conduct and that Defendants are entitled to qualified immunity. Defendants also  
12 contend that their actions were reasonable and in good faith.

13 **2. Principal Factual and Legal Disputes:**

14 The parties disagree on whether Plaintiffs had a constitutional right to film at the  
15 location from which they were asked to leave. The parties disagree on the issue of  
16 reasonable time, place and manner restrictions. The parties disagree on the qualified  
17 immunity defense.

18 **3. Jurisdictional Basis and Statutes:**

19 Plaintiffs assert that jurisdiction is founded upon 28 U.S.C. § 1331, 1343(a)(3)  
20 and 1343(a)(4).

21 **4. Unserved Parties:**

22 There are no unserved parties. All parties have answered.

23 **5. Additional Parties, Amendment of Pleadings:**

24 At this time, no additional parties are anticipated. At this time, no amendments to  
25 the pleadings are anticipated. The parties reserve the right to request any appropriate  
26 amendments that become necessary as investigation and discovery continue. The  
27 deadline for amendments was previously set as January 2, 2014 by Order dated  
28 October 30, 2013. DKT 57.

1           **6. Contemplated Motions:**

2           At this time, the parties anticipate filing dispositive motions on the issues of the  
3 existence of constitutional rights, whether there was a violation of any constitutional  
4 right and whether qualified immunity applies. The parties reserve the right to include any  
5 additional issues revealed as investigation and discovery continue.

6           **7. No Pending Motions:**

7           There are no pending motions before the Court.

8           **8. No Related Cases:**

9           There are no related cases pending before other Courts or Judges of this Court.

10          **9. Subjects of Discovery:**

- 11          a. The parties will conduct discovery on each and all elements of Plaintiffs'  
12             claims under 42 U.S.C. § 1983, § 1985 and § 1988. The parties will conduct  
13             discovery on each and all affirmative defenses set forth in Defendants'  
14             Answer to Amended Complaint. It is anticipated that discovery will take  
15             place in the venue where the case is filed, per the usual rules. Depositions  
16             of non-parties who reside out of state may require out of state depositions.
- 17          b. No revisions to the discovery limitations imposed by the Federal Rules of  
18             Civil Procedure and LR 26(1)(e) appear necessary at this time.
- 19          c. The parties agree to the time limit of 1 day of 7 hours for each deposition, as  
20             required under FRCP 30(d)(1), but reserve the right to stipulate to additional  
21             time or request an order granting additional time, as may be required for a  
22             full and fair examination.

23          **10. Discovery of Electronically Stored Information (ESI):**

24          The parties do not anticipate any issues regarding ESI at this time.

25          **11. Privileged or Confidential Matters:**

26          Defendants reserve the right to seek a protective order regarding any discovery  
27 request that calls for the production of confidential or privileged materials. Personnel  
28 files are confidential under either Nevada Administrative Code 284.718 or the Nevada

System of Higher Education Code §5.6.2, which has the force and effect of law. *State ex rel. Richardson v. Board of Regents*, 70 Nev. 144, 150, 261 P.2d 515, 518 (1953) and *Board of Regents v. Oakley*, 97 Nev. 605, 608, 637 P.2d 1199, 1202 (1981).

**12. Discovery Plan and Scheduling Order:**

The Court previously approved a discovery plan and issued a scheduling order on October 30, 2013 as DKT 57. The Order contains the following deadlines:

- a. **Discovery Cutoff – LR 26-1(e)(1):** 180 days from the date of Defendants' Answer sets the discovery cutoff at Saturday, March 29, 2014. Because this is a non-judicial day, the parties propose a deadline of ***Monday, March 31, 2014.***
- b. **Deadline to Amend Pleadings – LR 26-1(e)(2):** 90 days prior to the close of discovery sets the deadline to file amended pleadings at Wednesday, January 1, 2014. Because this is a non-judicial day, the parties propose a deadline of ***Thursday, January 2, 2014.***
- c. **Deadline to Disclose Expert Witnesses – LR 26-1(e)(3):** 60 days prior to the close of discovery sets the deadline to disclose expert witnesses at ***Thursday, January 30, 2014.***
- d. **Deadline to Disclose Rebuttal Expert Witnesses – LR 26-1(e)(3):** 30 days after the disclosure of expert witnesses sets the deadline to disclose rebuttal experts at Saturday, March 1, 2014. Because this is a non-judicial day, the parties propose a deadline of ***Monday, March 3, 2014.***
- e. **Deadline to File Dispositive Motions – LR 26-1(e)(4):** 30 days after the discovery cutoff sets the deadline to file dispositive motions at ***Wednesday, April 30, 2014.***
- f. **Deadline to File Joint Pretrial Order – LR 26-1(e)(5):** 30 days after the date set for filing dispositive motions sets the date for filing the Joint Pretrial Order at ***Friday, May 30, 2014 if no dispositive motions are filed. Should dispositive motions be filed, the date for filing the Joint Pretrial Order***



**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the University of Nevada, Reno, over the age of eighteen years, that I am not a party to the within action, and that on the 19th day of November, 2013, I electronically filed the foregoing **JOINT CASE MANAGEMENT REPORT**, with the Clerk of the Court by using the CM/ECF system and served the following parties by U.S. mail, postage prepaid, addressed to:

JOSEPH P. CUVIELLO  
PO Box 2834  
Redwood City, CA 94064

DENIZ BOLBOL  
PO Box 2834  
Redwood City, CA 94064

/s/ Catherine Bandoni  
Employee of the University of Nevada, Reno